Court No. 2

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 1538/ 2004 (S/S)

Gajendra Singh Rautela
S/o Late Shri Guman Singh Rautela,
At present posted as Station Officer,
Police Station Kathgodam, Nainital

..... Petitioner.

Versus

State of Uttaranchal through Secretary,
Home, Uttaranchal, Dehradun and 43 Others.

..... Respondents.

Sri Rajendra Dobhal learned counsel for the petitioner.
Sri Nand Prasad, learned Standing Counsel for the respondent/ State.

Date: 19th November, 2005.

Hon'ble P.C. Verma, J.

This petition has been filed by the petitioner seeking writ of certiorari calling for the records and quashing the order dated 12.12.2004 passed by the respondent No. 3/ Additional Director General of Police (Administration), Uttaranchal, Dehradun, contained in Annexure No. 6 to the writ petition and further a writ of mandamus commanding the respondents to carry out a fresh selection to the post of Inspector in the Police Department in accordance with the provisions of Uttar Pradesh Government Servant Criterion for Recruitment by Promotion Rules, 1994.

2. The petitioner, by way of amendment on 5.8.2005, incorporated a prayer seeking writ of mandamus commanding the respondents to award 06 marks to the petitioner for the certificate issued to the

petitioner for participating in 10th State Shooting Championship held in the year 1983 in Bareilly and further award 02 marks for training of 9 M.M. Carbine (SAF) held at Police Training Centre, Sitapur (U.P.) as the petitioner has duly informed the respondent-authorities through his representation dated 06.12.2004 before the interview, and thereafter consider the case of the petitioner for promotion to the post of Inspector (Police) in Police Department.

3. The petitioner was selected on the post of Sub Inspector of Police in the year 1978 and after completing training he was appointed as Sub Inspector in civil Police and since then the petitioner is still continuing as Sub Inspector in Police Department. The entire service record of the petitioner is unblemished till date and the petitioner has not been awarded any adverse entry in his character roll. The petitioner has not been awarded the marks, for which he was legally entitled in view of the Government Order dated 23.9.2004. Due to this he was denied promotion for the post of Inspector.

4. The learned counsel for the petitioner contended that the petitioner has not been awarded six marks for the certificates obtained by him in 10th State shooting Championship held at Bareilly (U.P.) in the year 1983 by Uttar Pradesh State Rifle Association . This argument of the learned counsel for the petitioner is misconceived. In Para-4 of the counter affidavit filed by the State it has been stated that the alleged Shooting Championship could not be termed as State Level Sports because it was organized by a local club i.e. Rifle Club, Bareilly. So, the respondent/authorities were right in not awarding the marks for the same.

5. It is further contended by the learned counsel for the petitioner that the petitioner was also not given two marks for A.K. 47 Riles training in Police Training College, Sitapur (U.P.) during the period 30.5.1992 to 05.6.1992 only because the petitioner could not produce the certificate. The petitioner in his rejoinder affidavit stated that the certificate was to be issued from Police Training Centre, Sitapur but it was not issued to the petitioner, therefore, the petitioner cannot be held responsible for non-production of said certificate. He had also disclosed about the fact of said training before selection committee at the time of interview. Therefore, it was incumbent on the selection committee to verify the correctness of statement of petitioner. The petitioner had also made a representation to Director General of Police, Uttaranchal, through courier service on 6.12.2004 and now the petitioner has been issued the duplicate certificate in lieu of original by Police Training Centre, Sitapur on 5.2.2005. The Photostat copies of representation dated 6.12.2004 alongwith postal receipt and certificate dated 5.2.2005 have been annexed as Annexure Nos. 1 & 2 respectively to the rejoinder affidavit.

6. The sole grievance of the petitioner is that he has not been awarded marks in the selection for promotion according to G.O. dated 23rd September, 2004, contained in Annexure No. 5 to the writ petition. He has completed 26-year-service and he has got excellent remarks during the service. In the rejoinder affidavit it has been stated by the petitioner that he had brought the fact to the notice of Selection Committee that the certificate issued by the Armed Training Centre, Sitapur

for the period 30.5.1992 to 5.6.1992 is not available with them. The Selection Committee ought to have considered the said certificate specifically when it had come to the notice of the committee after verifying the same from Police Training Centre, Sitapur (U.P.). The petitioner has satisfactorily explained in the rejoinder affidavit and supplementary rejoinder affidavit the circumstances due to which he could not produce the said certificate.

7. Keeping in view the facts and circumstances of the case, it is provided that the certificate produced by the petitioner shall be considered for promotion by the Selection Committee which was not considered by it at the time of selection process and he shall be awarded marks in accordance with the Government Order dated 23rd September, 2004 and thereafter the respondent /authorities shall declare fresh result of petitioner in the matter of promotion from the post of Sub Inspector to the post of Inspector.

8. Accordingly, the writ petition is allowed. No order as to costs.

(**P.C. Verma, J.)**
19.11.2005.

P.Singh